

RECEIVED  
CENTRAL FAX CENTER

MAY 12 2008

**KRIEG · DEVAULT** LLP  
**A T T O R N E Y S   A T   L A W****FAX COVER PAGE**

DATE: May 12, 2008

PAGES INCLUDING THIS PAGE: 20

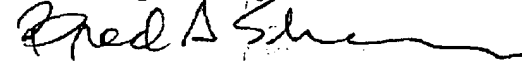
TO: Examiner James L. Swiger III  
COMPANY: United States Patent & Trademark OfficeFAX NUMBER: 571-273-8300  
PHONE NUMBER:

FROM: Brad A. Schepers, Reg. No. 45,431

DIRECT DIAL: (317) 238-6334  
FAX NUMBER: (317) 636-1507

RE: Response to non-final Office Action for U.S. Patent Application No. 10/645,413

COMMENTS: I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at 571-273-8300 on:

May 12, 2008  
(Date of Transmission)Brad A. Schepers  
Name of Registered Representative  
SignatureHard copy will be sent via: ☐ Regular Mail☐ Overnight Courier☒ Fax Communication Only

Name of Sender: Cheryl Kalugyer

Client Matter No.: 334 MSDI-1

**WARNING CONFIDENTIALITY NOTICE**

The documents constituting this fax transmittal contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual(s) or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance upon the content of this fax transmittal is strictly prohibited. If you have received this fax transmittal in error, please immediately notify us by telephone at the number below to arrange for return of the original documents to us. Thank you.

For Questions or Problems in Transmission, Please Contact our Fax Operators

KRIEG DEVAULT LLP  
ONE INDIANA SQUARE  
SUITE 2800  
INDIANAPOLIS, IN 46204  
TELEPHONE-(317) 636-4341  
FAX-(317) 636-1507KRIEG DEVAULT LLP  
12800 N MERIDIAN STREET  
SUITE 300  
CARMEL, IN 46032  
TELEPHONE-(317) 566-1110  
FAX-(317) 636-1507KRIEG DEVAULT GALVIN  
LLP  
5231 HOHMAN STREET  
HAMMOND, IN 46320  
TELEPHONE-(219) 933-0380  
FAX-(219) 933-0471KRIEG DEVAULT LUNDY  
LLP  
825 ANTHONY WAYNE  
BUILDING  
203 EAST BERRY STREET  
FT. WAYNE, IN 46802  
TELEPHONE-(260) 422-1534  
FAX-(260) 423-1590

MAY 12 2008

PTO/SB/21 (09-04)

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

19

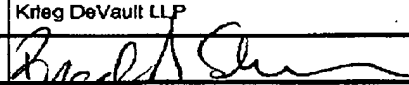
Application Number	10/645,413
Filing Date	August 21, 2003
First Named Inventor	Charles L. Branch
Art Unit	3733
Examiner Name	James L. Swiger III
Attorney Docket Number	MSDI-214/PC365.06

**ENCLOSURES (Check all that apply)**

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		


Remarks

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	Krieg DeVault LLP
Signature	
Printed name	Brad A. Schepers
Date	May 12, 2008
Reg. No.	45,431

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	
Typed or printed name	Brad A. Schepers
Date	May 12, 2008

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

MAY 12 2008

PTO/SB/17 (12-04v2)

Approved for use through 07/31/2008. OMB 0851-0032  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number

Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818)**FEE TRANSMITTAL**  
**For FY 2005**☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 100.00

**Complete If Known**

Application Number	10/645,413
Filing Date	August 21, 2003
First Named Inventor	Charles L. Branch, et al.
Examiner Name	James L. Swiger III
Art Unit	3733
Attorney Docket No.	MSDI-214/PC365.06

**METHOD OF PAYMENT (check all that apply)**☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):☒ Deposit Account Deposit Account Number: 12-2424 Deposit Account Name: Kreg DeVault LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	0.00
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES****Fee Description**

Each claim over 20 (including Reissues)

Fee (\$)	Small Entity Fee (\$)
50	25
200	100
360	180

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
25	2	50.00	100.00

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
5	0	0.00	0.00

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x		0.00

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge):

**SUBMITTED BY**

Signature		Registration No. (Attorney/Agent) 45,431	Telephone 317-636-4341
Name (Print/Type)	Brad A. Schepers		Date May 12, 2008

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RECEIVED  
CENTRAL FAX CENTER

MAY 12 2008

Doc.1283791

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:	)	Before the Examiner:
Charles L. Branch et al.	)	James L. Swiger III
	)	
Application Serial No. 10/645,413	)	Group Art Unit 3733
	)	
Filed: August 21, 2003	)	Ref. No. MSDI-214/
	)	PC365.06
	)	
INTERBODY FUSION GRAFTS	)	May 12, 2008
AND INSTRUMENTATION	)	

**Via Facsimile Transmission: 571-273-8300****RESPONSE TO NON-FINAL OFFICE ACTION**Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the non-final Office Action dated February 12, 2008, please consider the following amendments and remarks. Please charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

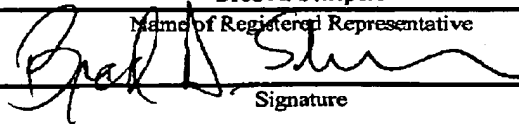
I hereby certify that this correspondence is being facsimile transmitted  
to the United States Patent and Trademark Office at 571-273-8300 on:

May 12, 2008

Date of Transmission

Brad A. Schepers

Name of Registered Representative



Signature

May 12, 2008

Date of Signature

RECEIVED  
CENTRAL FAX CENTER

MAY 12 2008

**INTRODUCTORY COMMENTS**

Claims 50-55, 63-68, 70, 71 and 73-81 were pending in the subject application for the non-final Office Action mailed on February 12, 2008. Each of the pending claims has been rejected on various grounds. In view of the following amendments and remarks, reconsideration and allowance of the subject application are hereby requested.

Response to non-final Office Action  
Application Serial No. 10/645,413  
Inventors: Branch et al.  
Filing Date: August 21, 2003

Page 2 of 16